

SENATE BILL No. 179

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Maximum age for firefighter appointment. Increases the maximum age for appointment as a firefighter from 36 to 42 years of age.

Effective: July 1, 2007.

Weatherwax

January 8, 2007, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 179

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-3.5-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) To be appointed
3 to the department, an applicant must be:

- 4 (1) a citizen of the United States;
5 (2) a high school graduate or equivalent; and
6 (3) at least twenty-one (21) years of age, but under:
7 **(A) thirty-six (36) years of age, for appointment to a police**
8 **department; or**
9 **(B) forty-two (42) years of age, for appointment to a fire**
10 **department.**

11 However, the age requirements do not apply to a person who has been
12 previously employed as a member of the department.

13 (b) A person may not be appointed, reappointed, or reinstated if ~~he~~
14 **the person** has a felony conviction on ~~his~~ **the person's** record.

15 (c) Applications for appointment or reappointment to the
16 department must be filed with the commission. The applicant must
17 produce satisfactory proof of the date and place of ~~his~~ birth.



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(d) Applicants for appointment or reappointment to the department must pass the general aptitude test required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5. The general aptitude test shall:

- (1) reflect the essential functions of the job;
- (2) be conducted according to procedures adopted by the commission; and
- (3) be administered in a manner that reasonably accommodates the needs of disabled applicants.

The results of the general aptitude test shall be filed with the commission. If the commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(e) The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading the applicants, including the establishment of a passing score. The commission shall place the names of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

(f) If an applicant for original appointment reaches: ~~his~~

(1) the applicant's thirty-sixth birthday, his for an applicant seeking appointment to a police department; or

(2) the applicant's forty-second birthday, for an applicant seeking appointment to a fire department;

the applicant's name shall be removed from the eligibility list. Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.

(g) When a vacancy occurs in the department, the commission, upon a written request of the chief of the department, shall administer the physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes the physical agility test, the applicant shall then be enrolled as a member of the department to fill the vacancy if:

- (1) the applicant is still of good character; and
- (2) the applicant passes the required examinations identified in IC 36-8-3.2-6 and IC 36-8-8-19.

(h) All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the commission shall notify ~~him~~ **the probationary member** in writing that ~~he~~ **the member** is being reprimanded, that ~~he~~ **the member** is being suspended, or that

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1 ~~he the member~~ will not receive a permanent appointment. If a member
 2 is notified that ~~he the member~~ will not receive a permanent
 3 appointment, ~~his the member's~~ employment immediately ceases.
 4 Otherwise, at the expiration of the probationary period the member is
 5 considered regularly employed.

6 SECTION 2. IC 36-8-4-7 IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) A person may not be
 8 appointed as a member of the police department ~~or fire department~~
 9 after the person has reached thirty-six (36) years of age. **A person may**
 10 **not be appointed as a member of a fire department after the person**
 11 **reaches forty-two (42) years of age.** A person may be reappointed as
 12 a member of the department only if the person is a former member or
 13 a retired member not yet receiving retirement benefits of the 1925,
 14 1937, 1953, or 1977 fund and can complete twenty (20) years of
 15 service before reaching ~~sixty (60)~~ **sixty-two (62)** years of age.

16 (b) This section does not apply to a fire chief appointed under a
 17 waiver under section 6(c) of this chapter or a police chief appointed
 18 under a waiver under section 6.5(c) of this chapter.

19 (c) A person must pass the aptitude, physical agility, and physical
 20 examination required by the local board of the fund and by
 21 IC 36-8-8-19 to be appointed or reappointed as a member of the
 22 department.

23 (d) A fire chief appointed under a waiver under section 6(c) of this
 24 chapter or police chief appointed under a waiver under section 6.5(c)
 25 of this chapter who is receiving, or is entitled to receive, benefits from
 26 the 1925, 1937, 1953, or 1977 fund may receive those benefits while
 27 serving as chief, subject to all normal requirements for receipt of a
 28 benefit, including a separation from service.

29 SECTION 3. IC 36-8-8-7, AS AMENDED BY P.L.1-2006,
 30 SECTION 575, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Except as provided in
 32 subsections (d), (e), (f), (g), (h), (k), (l), and (m):

33 (1) a police officer ~~or~~

34 ~~(2) a firefighter;~~

35 who is less than thirty-six (36) years of age; **or**

36 **(2) a firefighter who is less than forty-two (42) years of age;**

37 and who passes the baseline statewide physical and mental
 38 examinations required under section 19 of this chapter shall be a
 39 member of the 1977 fund and is not a member of the 1925 fund, the
 40 1937 fund, or the 1953 fund.

41 (b) A police officer or firefighter with service before May 1, 1977,
 42 who is hired or rehired after April 30, 1977, may receive credit under

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1 this chapter for service as a police officer or firefighter prior to entry
 2 into the 1977 fund if the employer who rehires the police officer or
 3 firefighter chooses to contribute to the 1977 fund the amount necessary
 4 to amortize the police officer's or firefighter's prior service liability over
 5 a period of not more than forty (40) years, the amount and the period
 6 to be determined by the PERF board. If the employer chooses to make
 7 the contributions, the police officer or firefighter is entitled to receive
 8 credit for the police officer's or firefighter's prior years of service
 9 without making contributions to the 1977 fund for that prior service. In
 10 no event may a police officer or firefighter receive credit for prior years
 11 of service if the police officer or firefighter is receiving a benefit or is
 12 entitled to receive a benefit in the future from any other public pension
 13 plan with respect to the prior years of service.

14 (c) Except as provided in section 18 of this chapter, a police officer
 15 or firefighter is entitled to credit for all years of service after April 30,
 16 1977, with the police or fire department of an employer covered by this
 17 chapter.

18 (d) A police officer or firefighter with twenty (20) years of service
 19 does not become a member of the 1977 fund and is not covered by this
 20 chapter, if the police officer or firefighter:

- 21 (1) was hired before May 1, 1977;
- 22 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
- 23 of which were repealed September 1, 1981); and
- 24 (3) is rehired after April 30, 1977, by the same employer.

25 (e) A police officer or firefighter does not become a member of the
 26 1977 fund and is not covered by this chapter if the police officer or
 27 firefighter:

- 28 (1) was hired before May 1, 1977;
- 29 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
- 30 of which were repealed September 1, 1981);
- 31 (3) was rehired after April 30, 1977, but before February 1, 1979;
- 32 and
- 33 (4) was made, before February 1, 1979, a member of a 1925,
- 34 1937, or 1953 fund.

35 (f) A police officer or firefighter does not become a member of the
 36 1977 fund and is not covered by this chapter if the police officer or
 37 firefighter:

- 38 (1) was hired by the police or fire department of a unit before May
- 39 1, 1977;
- 40 (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both
- 41 of which were repealed September 1, 1981);
- 42 (3) is rehired by the police or fire department of another unit after

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December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

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(3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

(1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1;

(2) whose employer is consolidated into the consolidated law enforcement department or the fire department of a consolidated city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and

(3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, if:

(1) before a consolidation under IC 8-22-3-11.6, a police officer or firefighter provides law enforcement services or fire protection services for an entity in a consolidated city;

(2) the provision of those services is consolidated into the law enforcement department or fire department of a consolidated city; and

(3) after the consolidation, the police officer or firefighter becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 8-22-3-11.6;

the police officer or firefighter is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l) may not be:

(1) retired for purposes of section 10 of this chapter; or

(2) disabled for purposes of section 12 of this chapter;

solely because of a change in employer under the consolidation.

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